

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA EASTERN DIVISION

REGIONS BANK, a 2006 JAN -3 A 9: 58
state banking association,)

Plaintiff and Counter Claim
Defendant as to Parcel 1)

CHARLENE RYLES, Administrator) CIVIL ACTION NO. CV -2:05-CV-1003-B
of the Estate of Charlie G. Ryles and)
CHARLENE RYLES, INDIVIDUALLY)

Counter/Cross Claim Plaintiff.)

V.)

THE ESTATE OF CHARLES G.)
RYLES; CHECK CARE SYSTEMS;)
ANDREANA PHIPHER)
BLEND A RYLES; CHARLENE)
RYLES; CHRISTOPHER RYLES;)
DOROTHY D. RYLES; GREGORY D.)
RYLES; KERONICA RYLES;)
KIMBERLY RYLES & SANDRA)
RYLES)

Defendants; Counter Claim)
Defendants; and Cross claim)
Defendants.)

ANSWER ;
RESPONSE TO MOTION TO STRIKE CROSS-CLAIM PLAINTIFF AND
COUNTER/CROSS-CLAIM DEFENDANT'S 1ST AMENDED COMPLAINT; AND
AMENDED COMPLAINT

COMES NOW the Defendants, The Estate of Charlie G. Ryles by and through its administrator Charlene Ryles and Charlene G. Ryles in her individual capacity, by and through their Counsel of Record herein and states the following as their response to the Defendant's Motion to Strike Cross-Claim Plaintiff and Counter/Cross-Claim Defendant's 1st Amended Complaint and Answer and Amended Complaint and states as follows:

1. The Counter and Cross Claim Plaintiff Charlene Ryles was not notified of the Court's November 30, 2005 Order and became aware of said Order for the first time through a telephone conversation with the Assistant US Attorney's Office who stated he would not oppose Counsel's late filing.

2. The Counter Claim and Cross Claim Plaintiff, The Estate of Charlie G. Ryles, is a validly formed Estate Administration open in the Probate Court of Pike County, Alabama by and through its administrator, Charlene G. Ryles.

3. The Counter Claim and Cross Claim Plaintiff, Charlene Ryles, is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

4. The Counterclaim-Defendant, Regions Bank, a State Banking Association, is believed to be a State Banking Association operating and doing business in Pike County.

5. The Counterclaim-Defendant, Check Care Systems, is upon information and belief a entity or business transaction business in Pike County, Alabama.

6. The Counterclaim-Defendant, the Internal Revenue Service, is an agency of the Unites States Government which holds a interest against the 1/9th ownership of Gregory Ryles.

7. The Counter Claim and Cross claim Defendant, Andreana Phipper is over the age of nineteen (19) years and is a resident Shorter Macon County, Alabama.

8. The Counter Claim and Cross Claim Defendant, Gregory D. Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

9. The Counter Claim and Cross Claim Defendant, Sandra. Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

10. The Counter Claim and Cross Claim Defendant, Blenda Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

11. The Counter Claim and Cross Claim Defendant, Keronica Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

12. The Counter Claim and Cross Claim Defendant, Kimberly Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

13. The Counter Claim and Cross Claim Defendant, Christopher Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

14. The Counter Claim and Cross Claim Defendant, Dorothy D. Ryles is over the age of nineteen (19) years and is a resident of Pike County, Alabama.

STATEMENT OF THE FACTS

15. There are two properties that are the subject of this action for Sell for division which are referred to in this complaint as parcel 1 and parcel 2.

16. The Plaintiff Cross Claim Defendant Regions Bank held a mortgage on parcel 1.

17. Parcel one is more particularly described as follows:
Lot 6 according to the Plat of Thomas Heights Subdivision as recorded in the Office of the Judge of Probate of Pike County, Alabama in Plat Book 3, page 127.

18. Regions bank by error released its lien against the property. The Counter Claim Defendants and Counter/Cross Claim Plaintiff recognized and conceded that the release was in error and that the release was a result of miss communication between one of the Counter Claim Defendants, Andreana Phipper, and Regions Bank. By consent of the parties the Pike County Circuit Clerk entered an order reinstating the mortgage.

19. Counter Claim/ Cross Claim Plaintiff and Cross Claim Defendants are co-owners or tenants in common of both parcel 1 and parcel 2.

20. Parcel 2, is not encumbered by a mortgage.

21. Parcel 2 is more particularly described as a house and lot follows:

Commencing at the intersection of the East line of the Northeast quarter of the Southwest quarter, Section 29, Township 9 North, Range 20 East, and the North right of way of the Goshen-Little Oak paved highway; thence South 69 degrees 45 minutes West 91.1 feet along the highway right of way; thence North 11 degrees 25 minutes West 163.1 feet; thence North 69 degrees 45 minutes East 135.2 feet; thence South 11 degrees 25 minutes East 163.1 feet to the highway right of way; thence South 69 degrees 45 minutes West 44.1 feet along the highway right of way to the point of beginning. Said lot lying and being in the Northeast quarter of the Southwest quarter, the Southeast quarter of the Northwest quarter, the Southwest quarter of the Northeast quarter, and the Northwest quarter of the Southeast quarter, all in Section 29, Township 9 North, Range 20 East.

22. Each party named below owns a fractional interest in parcels 1 and 2 as follows:

- | | | |
|----|-------------------|----------------|
| 1. | Charlene Ryles: | 1/9th interest |
| 2. | Gregory D. Ryles | 1/9th interest |
| 3. | Sandra Ryles | 1/9th interest |
| 4. | Andreana Phipper | 1/9th interest |
| 5. | Blenda Ryles | 1/9th interest |
| 6. | Keronica Ryles | 1/9th interest |
| 7. | Kimberly Ryles | 1/9th interest |
| 8. | Christopher Ryles | 1/9th interest |
| 9. | Dorothy D. Ryles | 1/9th interest |

Said ownership interest resulted from the death of their father, Charlie G. Ryles, who passed away on or about September 28, 2003 without leaving a will. At the time of the death of Charlie G. Ryles, he was the sole fee simple owner of the subject property as evidenced by that deed recorded in the Office of the Judge of Probate for Pike County, Alabama in book **117, page 486** and book **172, page 726**. An estate administration was opened in the Pike County Probate Court, case number PC 2003-289.

23. The property cannot be equitably divided or partitioned among the co-tenants or

tenants in common as both parcels are small lots each containing a single residential family dwelling.

24. As previously stated, the Internal Revenue Service holds a lien against the Property which is the subject matter of the sale for division, described as follows:

Tax payer:

Gregory D. Ryles
352 Aster Ave
Troy, Al
IRS lien Unit: Nashville, TN
Amount \$7,685.46
ID: 421-15-4507
Book and Page 2004 page 120
Pike County, Alabama
Recorded on May 5, 2004 and Executed April 22, 2004

Said lien is attached hereto and made part hereof as **Exhibit "A"**

25. The Petitioner does not dispute the validity of said lien and does not object to the payment of said lien from the sell as to the interest of Gregory D. Ryles. The existence of this lien was only learned the day before the previously Court Ordered Sell date as the lien was overlooked by the abstractor who previously ran title on the property.

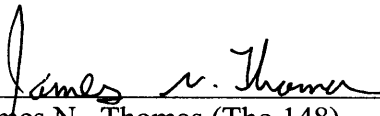
26. Counter and Cross Claim Plaintiffs have retained the undersigned counsel to represent them in the commencement and prosecution of this action whose services in this action will benefit and inure to all co-owners or tenants in common.

WHEREFORE, Plaintiffs pray that this Court will take jurisdiction of this action and upon a hearing of this action will:

1. Order, adjudge, decree and declare the respective rights, titles and fractional interests of the parties to this action;

2. Determine that the property cannot be equitably divided or partitioned among the co-owners or tenants in common in accordance with their fractional interests;
3. Order that the property be sold at public sale to the highest and best bidder therefore;
4. Order the distribution of the proceeds of the sale of the property, after deduction for all allowable costs and expenses of this action and the sale, to the co-owners or tenants in common in accordance with their respective interests in and to the property after payment of said mortgage, and judgement lien to the IRS; and
5. Allow as a cost and expense of this action a reasonable fee to the attorney for the counter claim plaintiff for the commencement and prosecution of this action.

Counter and Cross Claim Plaintiffs pray for such other, further and different relief to which they may be entitled.


James N. Thomas (Tho 148)
Attorney for Defendant and Counter/Cross
Claim Plaintiffs

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the forgoing on the parties at the following addresses by mailing a copy of same by Unites States Mail properly addressed and first class postage prepaid, on this 30th day of December, 2005:

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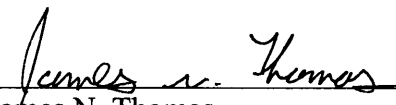
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